

Message Text

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ORIGIN EA-12

INFO OCT-01 EUR-12 NEA-11 IO-13 ISO-00 L-03 SS-15
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FM SECSTATE WASHDC
TO AMEMBASSY BANGKOK
AMEMBASSY BELGRADE
AMEMBASSY BONN
AMEMBASSY BRUSSELS
AMEMBASSY CANBERRA
AMEMBASSY CAIRO
AMEMBASSY THE HAGUE
AMEMBASSY HELSINKI
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AMEMBASSY JAKARTA
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AMEMBASSY VIENTIANE
AMEMBASSY RANGOON
AMEMBASSY WELLINGTON
USMISSION USNATO
CINCPAC HONOLULU HAWAII 0456

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E.O. 11652: N/A

TAGS: PDIP, ASEC, US, VM

SUBJECT: HUMPHREY-HUNG CONVICTION: AFTERMATH

1. NEXT JUDICIAL STEPS: WITH CONVICTION OF HUMPHREY AND HUNG ON ALL COUNTS BY ALEXANDRIA JURY MAY 19, ATTENTION HAS SHIFTED TO THE APPEALS PROCESS WHICH ATTORNEYS FOR BOTH MEN HAVE INDICATED THEY WILL PURSUE IN EFFORT TO HAVE VERDICTS OVERTURNED.

2. BEFORE ACTUAL APPEAL PROCESS BEGINS, HOWEVER, WE ANTICIPATE THAT DEFENSE ATTORNEYS WILL FILE POST-TRIAL MOTIONS TO SET ASIDE THE VERDICT. SUCH MOTIONS WOULD BE HEARD BY THE SAME JUDGE WHO PRESIDED AT THE TRIAL. BASIS OF MOTIONS WILL LIKELY BE THAT, IN SPITE OF JURY FINDINGS TO THE CONTRARY, CLASSIFIED DOCUMENTS INTRODUCED BY THE GOVERNMENT DO NOT RELATE, AS A MATTER OF LAW, TO THE NATIONAL DEFENSE. IN ADDITION, DEFENSE ATTORNEYS WILL PROBABLY ARGUE THAT CERTAIN STATEMENTS OR LINES OF QUESTIONING BY PROSECUTORS DURING TRIAL CONSTITUTED "REVERSIBLE ERROR," BECAUSE OF THEIR ALLEGEDLY PREJUDICIAL EFFECT ON THE JURY. ASSUMING THAT THE JUDGE DOES NOT SET ASIDE THE VERDICTS, SENTENCING

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WILL TAKE PLACE IN LATE JUNE. FOLLOWING SENTENCING, THE NEXT STEP WOULD BE FOR DEFENSE ATTORNEYS TO APPEAL THE CASE TO THE FORTH CIRCUIT COURT OF APPEALS IN RICHMOND. IT IS POSSIBLE THAT, GIVEN THE COURT'S EXTENDED SUMMER RECESS, APPEALS WOULD NOT BE HEARD BEFORE NEXT YEAR.

3. STATUS OF EVIDENTIARY DOCUMENTS: CLASSIFIED DOCUMENTS INTRODUCED INTO EVIDENCE HAVE BECOME PART OF OFFICIAL RECORDS OF THE TRIAL. THEY WILL REMAIN IN THE CUSTODY OF THE COURT CLERK UNTIL SUCH TIME AS THEY WILL BE PROVIDED TO A HIGHER COURT AS PART OF THE APPEALS PROCESS. IN THE MEANTIME, THEY ARE IN THE PUBLIC DOMAIN AND ARE AVAILABLE FOR REVIEW AT THE OFFICE OF THE CLERK OF THE COURT BY INTERESTED MEMBERS OF THE PUBLIC AND THE PRESS.

4. PRESS REPORTING ON DOCUMENTS: THE ONLY PRESS ARTICLE DIRECTLY RELATING TO CABLES AND AIRGRAMS INTRODUCED INTO EVIDENCE OF WHICH DEPARTMENT IS AWARE WAS RUN IN THE WASHINGTON POST MAY 24. STORY DID NOT GIVE NAMES OF ANY OF THE CONFIDENTIAL SOURCES COMPROMISED AND IN GENERAL CONCENTRATED ON MORE INNOCUOUS PORTIONS OF EVIDENTIARY

DOCUMENTS. STORY DID HOWEVER PROMPT CALLS TO THE DEPARTMENT FROM FRG AND JAPANESE EMBASSIES INQUIRING ABOUT STATEMENT CONTAINED THEREIN TO THE EFFECT THAT DOCUMENTS HAD "BEEN MADE AVAILABLE" TO THE PRESS. WE EXPLAINED THAT REFERENCE WAS TO FACT THAT MEMBERS OF THE PRESS HAD BEEN GRANTED ACCESS TO THE DOCUMENTS BY THE CLERK OF THE COURT, NOW THAT THE TRIAL HAD BEEN CONCLUDED. WE ALSO INDICATED THAT DEPARTMENT DID NOT INTEND TO MAKE CABLES AVAILABLE, UNLESS THEY SHOULD BECOME THE SUBJECT OF A FREEDOM OF INFORMATION ACT REQUEST. BOTH EMBASSIES EXPRESSED RELIEF THAT WASHINGTON POST STORY HAD IGNORED POTENTIALLY DAMAGING ASPECTS OF EVIDENTIARY DOCUMENTS AND DID NOT NAME CONFIDENTIAL SOURCES AND AGREED WITH OUR ASSESSMENT THAT FOR NOW AT LEAST PRESS REPORTING ON THE LIMITED OFFICIAL USE

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DOCUMENTS SEEMED TO HAVE RUN ITS COURSE.

5. PRESS GUIDANCE: ADDRESSES SHOULD CONTINUE TO DECLINE COMMENT ON HUMPHREY-HUNG CASE IN VIEW OF APPEALS PROCESS.
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Message Attributes

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